

10/065,306

13436-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:) Group Art Unit: 3736
JORDAN, Kenneth G.) Examiner: Natnithithadha, Navin
Serial No.: 10/065,306)
Filed: October 1, 2002)
For: Electroencephalogram Acquisition Unit)
and System)

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PETITION UNDER 37 CFR § 1.103 (a)

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The present application, which is a divisional of U.S. Patent No. 6,510,340, remains rejected under 35 U.S.C. § 101 as claiming the same invention as claims 15-22 of U.S. Patent No. 6,510,340 (a statutory double patenting rejection). Disposition of this rejection is dependent on action by the Patent and Trademark Office on a Request for Certificate of Correction submitted by the Applicant in U.S. Patent No. 6,510,340 on March 26, 2004. Applicant requested in that Certificate of Correction that claims 15-22 of U.S. Patent No. 6,510,340 be canceled, as these claims were withdrawn during prosecution but were mistakenly included in the issued patent.

Pursuant to 37 CFR § 1.103 (a) and MPEP § 709, Applicant hereby requests that further action by the Patent and Trademark Office in the above-identified patent application be suspended if the above-identified application is found to be allowable except for the pending statutory double patenting rejection. Applicant requests that further action be suspended either (1) for six months or (2) until the Certificate of Correction submitted by Applicant in U.S. Patent No. 6,510,340 is acted on, whichever period of time is shorter.

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Although Applicant submitted the Request for Certificate of Correction in U.S. Patent No. 6,510,340 on March 26, 2004, when the undersigned called the Certificate of Correction Branch on January 4, 2005, he was told that there was no record of Applicant's Request for Certificate of Correction having been filed. The undersigned immediately faxed the Request for Certificate of Correction to the Certificate of Correction Branch, including Applicant's Certificate of Facsimile Transmission and evidence that such transmission on March 26, 2004 was successful. The Certificate of Correction Branch contacted the undersigned the following day (January 5, 2005) to acknowledge receipt of the Request for Certificate of Correction, and the undersigned was assured that it would be handled in an expedited manner.

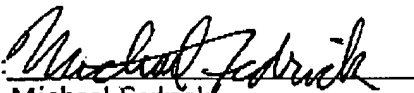
Since the present application cannot be allowed until a Certificate of Correction in U.S. Patent No. 6,510,340 is acted on, there is good and sufficient cause for allowing the present Petition under 37 CFR § 1.103 (a). Since Applicant is submitting herewith a reply to the Final Office Action mailed November 15, 2004 in the present application, no reply by Applicant to an Office Action is outstanding.

The present Petition is necessitated by the failure of the Certificate of Correction Branch to process the Request for Certificate of Correction filed by Applicant on March 26, 2004. Therefore, the fee set forth in § 1.17(h) for submitting a petition under 37 CFR § 1.103 (a) is not believed to be due, as the cause for the present petition is due to the fault of the Patent Office. If the Office believes differently, it is respectfully requested that the Examiner contact the undersigned at the telephone number listed below.

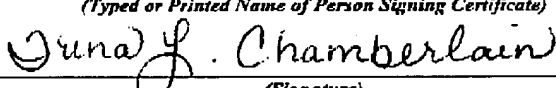
Respectfully submitted,

SHELDON & MAK PC

Date: January 14, 2005

By: 
Michael Fedrick
Reg. No. 36,799

225 South Lake Avenue, 9th Flr.
Pasadena, California 91101
(626) 796-4000

CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)		Docket No. 13436-1	
Applicant(s): JORDAN, Kenneth G.			
Application No. 10/065,306	Filing Date October 1, 2002	Examiner Natnithadha, Navin	Group Art Unit 3736
Invention: Electroencephalogram Acquisition Unit and System			
I hereby certify that this <u>Amendment after Final; Petition Under 37 CFR § 1.103 (a)</u> (<i>Identify type of correspondence</i>) is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>1.703.872.9302</u>) on <u>January 14, 2005</u> (<i>Date</i>)			
<div style="text-align: right;"> <u>Trina L. Chamberlain</u> <i>(Typed or Printed Name of Person Signing Certificate)</i>  _____ <i>(Signature)</i> </div>			
Note: Each paper must have its own certificate of mailing.			